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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,486	02/25/2004	Ronald W. Ausen	58196US007	3119

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EXAMINER

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,486

Applicant(s)

AUSEN ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/2004 (cert. of mail date).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the reply filed 13 October 2004.

Response to Arguments

The rejection under 35 U.S.C. §112, second paragraph, to claim 8, indicated in the prior Office action of 20 July 2004, has been withdrawn in view of applicant's amendment to claim 2.

Applicant's arguments, filed 13 October 2004, with respect to the traversal of the rejections under 35 U.S.C. §102 to claims 1-4 have been fully considered and are persuasive. Therefore, the rejection of claims 1-4, under 35 U.S.C. 102(b) as being anticipated by Nestgard (U. S. Patent No. 4,894,060), has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Roessler et al. (U. S. Patent No. 5,176,670).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed feature requiring "spaced projections . . . in a row" (claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings are further objected to since structural detail is difficult to distinguish in Figures 4, 5 and 6. Figures 4, 5, and 6, appear to show each of the projection (i.e., hook members 14) continuously connected to one another, where the lower portion of stems 15 are continuously connect to one another.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 4, there is no antecedent basis for "said base".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Roessler et al. (U.S. Patent No. 5,176,670). Roessler et al. ('670) discloses a unitary film structure of a polymeric resin ("polypropylene copolymer", col. 2, line 25) comprising a base film layer (30, 67) having generally parallel upper and lower major surfaces having projections (31, 60) being arranged in rows with at least 25 spaced projections per centimeter (see lines 10-11 of Abstract, "740 hooks per inch..." which is at least 291 hooks per centimeter (740/2.54)) in a row projecting from at least the upper surface of said base;

(concerning claim 2) the projections are hook members (14) which have head portions (i.e., thickness of the head portions) that extend in a direction transverse to the direction of rows of the hook members;

(concerning claim 3) the unitary hook fastener having at least 30 spaced hook members per centimeter in a row; and

(concerning claim 4) the polymeric material is a thermoplastic resin ("polypropylene copolymer") and the hook head has rounded corners (as shown in Fig. 20)

(concerning claim 5) the unitary hook fastener having at least 50 spaced hook members per centimeter in a row; and

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(concerning claim 6) the polymeric material comprises polyethylene, polypropylene, polypropylene-polyethylene copolymers or blends thereof.

Allowable Subject Matter

Claims 7- 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

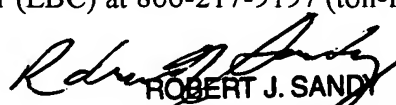
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanzer et al. (U.S. Patent No. 6,730,069) and Provost (U. S. Patent No. 6,131,251) each show unitary film structure. The web page Titled ULTRA-MATE® Brand HTH by Velcro®, published June 16, 2001, discloses a hook density range "from 130 to 900 hooks per inch".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ROBERT J. SANDY
PRIMARY EXAMINER

Robert J. Sandy
Primary Examiner
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